Canadian Artists and Producers Professional Relations Tribunal

2011-2012

Report on Plans and Priorities

The Honourable Lisa Raitt
Minister of Labour

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Message from the Chairperson

I am pleased to present the 2011-2012 *Report on Plans and Priorities* for the Canadian Artists and Producers Professional Relations Tribunal ("CAPPRT" or "the Tribunal"). This report outlines the Tribunal's intended direction for the next three years.

The Tribunal is committed to the development and maintenance of constructive professional relations between artists and producers, and to the economic and social well-being of its stakeholder community. As one of more than twenty federal organizations supporting a vibrant Canadian culture, the Tribunal is an important part of a complex whole, making a critical contribution to long-term progress for the cultural sector.

The Tribunal's principal responsibility is to adjudicate matters brought before it under the *Status of the Artist Act*. The Tribunal will continue to provide fair and timely resolution of these matters, and continue to develop a solid body of precedents and case law that can be used to help resolve future cases.

In addition, the Tribunal plays an informative role, promoting increased collaboration between artists, artists' associations and producers, increasing their understanding of their rights and obligations under the *Act*, and supporting the collective bargaining process by providing impartial, timely information.

Ultimately, the work of the Tribunal contributes to harmonious professional relations in the cultural sector, which in turn contributes to better conditions of engagement for artists and a more stable, predictable workforce for producers.

In 2011-2012, the Tribunal will continue its efforts promoting and supporting collective bargaining in the area of its jurisdiction. It will provide access to useful information on its website, such as scale agreements and analyses of them, for parties engaged in or contemplating bargaining. It will continue to inform artists and producers about the *Status of the Artist Act*, in order to permit them to fully exercise their rights and fulfil their responsibilities under the *Act*. It will encourage mediation to help parties conclude scale agreements, manage their relationships, and resolve complaints without the need for formal hearings. And it will maintain close contact and communication with its stakeholders and partners to ensure the relevance of its services and activities.

The Tribunal will continue to assist the parties in the negotiation process under the *Status of the Artist Act*, ensuring that they have ready access to information and assistance when they need it. It will provide a high quality of service in dealing with adjudicative matters within its statutory responsibilities. These include complaints of unfair labour practices and other matters brought forward by artists, artists' associations, producers, and labour arbitrators, determination of sectors of cultural activity suitable for collective bargaining,

and certification of artists' associations to represent self-employed artists working in these sectors.

Integrity, timeliness, confidentiality and impartiality are among the values that guide the ongoing activities of the Tribunal. The Tribunal members and staff will make every effort in the year ahead to promote harmonious professional relations in the cultural sector. I look forward to leading the Tribunal in this endeavour.

Elaine M. Kierans
Acting Chairperson and Chief Executive Officer
February 1, 2011

Section I: Overview of the Tribunal

Raison d'être and Responsibilities

Raison d'être

Parliament created the Canadian Artists and Producers Professional Relations Tribunal to administer Part II of the *Status of the Artist Act*, which sets out a structure for professional relations between self-employed artists and producers in federal jurisdiction. The Tribunal defines sectors of artistic activity for collective bargaining, certifies artists' associations to represent self-employed artists working in those sectors, and deals with complaints of unfair labour practices from artists, artists' associations and producers.

Responsibilities

The Canadian Artists and Producers Professional Relations Tribunal administers Part II of the *Status of the Artist Act*. Its objective is to contribute to Canada's cultural community by encouraging constructive professional relations between artists and producers in federal jurisdiction.

The Tribunal has the following main responsibilities:

- To define the sectors of cultural activity suitable for collective bargaining between artists' associations and producers within the Tribunal's jurisdiction, and certify artists' associations to represent self-employed artists working in these sectors; and

- To deal with complaints of unfair labour practices and other contraventions of Part II of the *Act* brought forward by artists, artists' associations or producers, and prescribe appropriate remedies.

Parliament passed the *Status of the Artist Act* as part of a commitment to recognize and stimulate the contribution of the arts to the cultural, social, economic and political enrichment of the country. The *Act* reflects the recognition that constructive professional relations in the arts and culture sector are an important element of a vibrant Canadian culture and heritage.

Since its inception, the Tribunal has defined 26 sectors of artistic activity and certified 24 artists' associations to represent them. Certified artists' associations have concluded nearly 170 scale agreements with producers, including government producers and specialty television services, since their certification. Nine percent of these are the first agreements that the parties have ever concluded.

The Tribunal reports to Parliament through the Minister of Labour.

Strategic Outcome and Program Activity Architecture (PAA)

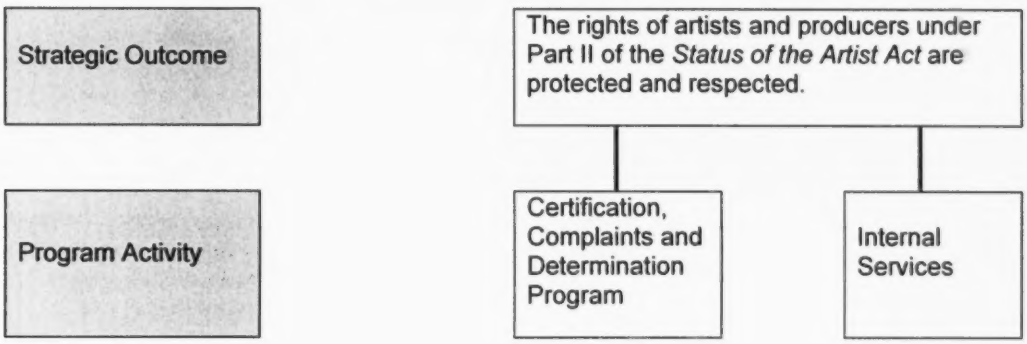
Strategic Outcome

The Tribunal seeks to achieve the following strategic outcome:

The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.

Program Activity Architecture

The chart bellow illustrates the Tribunal's program activities, which contribute to its strategic outcome.


Strategic Outcome
The rights of artists and producers under Part II of the Status of the Artist Act are protected and respected.
Program Activity
Certification, Complaints and Determination Program
Internal Services

Planning Summary

Financial Resources ($ millions)

2011–12	2012–13	2013–14
2.064	2.064	2.064

Human Resources (Full-time Equivalent – FTE)

2011–12	2012–13	2013–14
10	10	10

Strategic Outcome: The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.	
Performance Indicators	**Targets**
Cases are resolved in a fair and timely way, with natural justice and administrative fairness observed, Stakeholders have easy, timely access to information about the *Act* and about Tribunal decisions and activities: • Average number of calendar days between hearing and issue of reasons • Average time to process cases from application to issue of reason for decision • Cases are upheld on judicial review • Requests for mediation assistance result in complaints resolved and in agreements reached or renewed • Prompt response to requests for Information • Timely information bulletins • Stakeholder satisfaction	• Average time between hearing and issue of reasons does not exceed 60 calendar days • Average time to process all cases from application to issue of reason for decision does not exceed 200 days • At least 75% of cases are upheld on judicial review • 75% of requests for complaints mediation assistance result in complaints resolved • 75% of requests for bargaining mediation assistance result in agreements reached or renewed • Information requests responded to within 2 working days • Information bulletins published within 60 days of decisions and other major events • Stakeholders are satisfied, based on ongoing informal survey

Program Activity	**Forecast Spending 2010–11 ($ millions)**	**Planned Spending ($ millions)**			**Alignment to Government of Canada Outcomes**
		2011–12	**2012–13**	**2013–14**	
Certification, Complaints and Determination Program	.690	1.614	1.614	1.614	Vibrant Canadian culture and heritage
Total Planned Spending		1.614	1.614	1.614	

Internal Services	Forecast Spending 2010–11 ($ millions)	Planned Spending ($ millions)		
		2011–12	2012–13	2013–14
	0.370	0.450	0.450	0.450

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Links to Strategic Outcome	Description
Deal with matters brought before Tribunal with high quality service	Ongoing	The CAPPRT, like any administrative tribunal, has a duty to ensure that cases are resolved fairly and in a timely way, fully respecting the requirements of natural justice and administrative fairness.	Deal with matters brought before Tribunal with high quality service
Fully inform and assist stakeholders	Ongoing	Through its outreach and communication activities, the Tribunal builds stakeholder awareness of the *Status of the Artist Act* and the rights and responsibilities that flow from it.	Fully inform and assist stakeholders

Management Priorities	Type	Links to Strategic Outcome	Description
Improve management practices	Ongoing	Like any government agency, the Tribunal must continually strive to modernize and improve its management practices, in order to support the Tribunal in its decision-making and administrative capacities.	Improve management practices

Risk Analysis

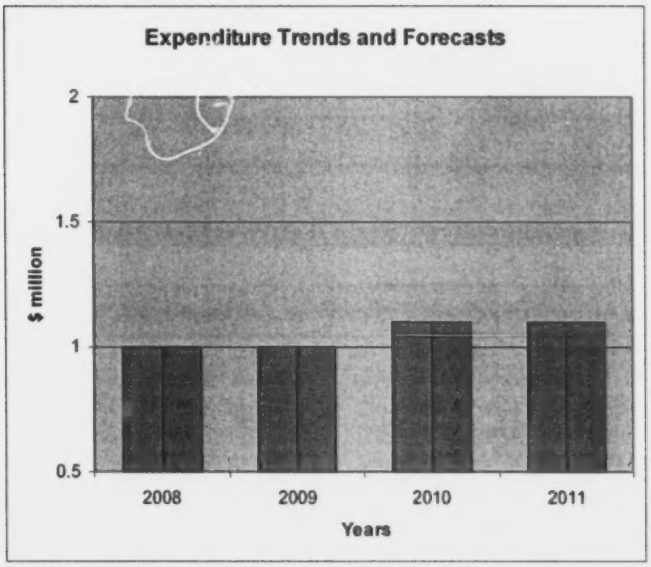
The nature of the Tribunal's mandate and its business environment makes the organization relatively risk-averse. The same observation could be made of any quasi-judicial organization. Accordingly, the Tribunal has in place numerous management strategies to mitigate potential risks.

Like any court or administrative tribunal, the CAPPRT must be prepared to deal with highs and lows of case volume. The Tribunal's services must be available to artists and producers as and when the need arises. The Tribunal has certified artists' associations to represent most sectors under its jurisdiction, so its certification work is relatively predictable. Complaints under the *Act* and references from arbitrators are less predictable and can arise at any time.

Continuing uncertainty in the world economy has affected the arts and culture sector, and the impact is not likely to diminish in the immediate future. If economic problems result in parties having difficulty meeting their obligations under the *Act* or reaching agreements under it, there may be an increase in demand for the Tribunal's services. Even certification work could increase, if an unstable economy gives rise to challenges to representation.

The Tribunal has traditionally been able to manage the unpredictability of caseloads by judicious planning and budgeting within its existing appropriation levels for both human and financial resources. In years where its total appropriations have not been used, it has returned funds to the Consolidated Revenue Fund.

Expenditure Profile



The Tribunal has not had any significant increase or decreases in expenditures over the past four years as indicated by the graph. However, the level of activity surrounding the caseload, a caseload that the tribunal does not control or regulate in any way, has been less than planned and, as a result, actual expenditures have been less than planned. As mentioned earlier, monies not spend by the Tribunal are returned to the Consolidated Revenue Fund at the end of each fiscal year. Planned spending over the 3 year planning period, however, is based on a "full" case load.

Estimates by Vote

For information on our organizational votes and/or statutory expenditures, please see the 2011–12 Main Estimates publication. An electronic version of the Main Estimates is available at http://www.tbs-sct.gc.ca/est-pre/2011-2012/me-bpd/info/info-eng.asp.

Section II: Analysis of Program Activities by Strategic Outcome

Strategic Outcome

The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.

The following section describes the Tribunal's program activities and identifies the expected result, performance indicators and targets for each of them. This section also explains how the Tribunal plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to each program activity.

This section will contain a discussion of the following Program Activities:

- Certification, Complaints and Determination Program
- Internal Services

Additional information on the Tribunal's performance measurement framework and methodology can be found on the Tribunal's website (www.capprt-tcrpap.gc.ca).

Program Activity by Strategic Outcome

Program Activity: Certification, Complaints and Determination Program

This program activity includes the Tribunal's quasi-judicial determinations activity relating to certification applications, complaints (such as bad faith bargaining, failure in the duty of fair representation, etc.), and referrals by arbitrators under the *Act*. It also includes the research and outreach structure necessary to ensure that stakeholders and the public have easy, timely access to information about the *Status of the Artist Act* and their rights and responsibilities under it, and about Tribunal decisions and activities.

Program Activity : Certification, Complaints and Determination Program					
Human Resources (FTEs) and Planned Spending ($ millions)					
2011–12		**2012–13**		**2013–14**	
FTEs	**Planned Spending**	**FTEs**	**Planned Spending**	**FTEs**	**Planned Spending**
7	1.614	7	1.614	7	1.614

Program Activity Expected Results	Performance Indicators	Targets
Fair and timely resolution of cases. Stakeholders have easy, timely access to information about the *Status of the Artist Act* and their rights and responsibilities under it, and about Tribunal decisions and activities	• Average number of calendar days between hearing and issue of reasons	• Average time between hearing and issue of reasons does not exceed 60 calendar days
	• Average time to process cases from application to issue of reason for decision	• Average time to process all cases from application to issue of reason for decision does not exceed 200 days
	• Cases are upheld on judicial review	• At least 75% of cases are upheld on judicial review
	• Requests for mediation assistance result in complaints resolved and in agreements reached or renewed	• 75% of requests for complaints mediation assistance result in complaints resolved • 75% of requests for bargaining mediation assistance result in agreements reached or renewed
	• Prompt response to requests for Information	• Responses to information requests within 2 working days • Responses thorough and correct
	• Timely information bulletins	• Information bulletins published monthly • Special bulletins, if required, published within 60 days of decisions and other major events
	• Stakeholder satisfaction.	• Stakeholders are satisfied, based on ongoing informal surveying

Planning Highlights

In order to achieve the expected result, the Tribunal plans to undertake the following activities:

- The Tribunal will continue to focus on carrying out its statutory mandate fairly and in a timely manner. The Tribunal will ensure that the time required to issue reasons for decisions after hearings, and the total time required to process cases, from the date an application is received until the date of the decision, meet or surpass the targets shown in the table above.

- The Tribunal will assess its fairness – encompassing impartiality, accessibility, integrity, and confidentiality – using as an indicator the percentage of its decisions upheld on judicial review. The Federal Court may review a Tribunal decision in the following circumstances:
  - if the Tribunal acted without jurisdiction or beyond its jurisdiction or refused to exercise its jurisdiction;
  - if it failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe; or
  - if it acted, or failed to act, by reason of fraud or perjured evidence.

  The Federal Court acts as the arbiter of fairness of federal quasi-judicial tribunals, so this is an important indicator. The Tribunal has set as a target that more than 75 percent of its cases are upheld on judicial review.

- Stakeholder satisfaction is not necessarily a good indicator of fairness – parties may be dissatisfied with Tribunal decisions that are fair but do not go their way – and measuring it in any systematic way through stakeholder surveys is impractical and would be a burden on the stakeholders. Nonetheless, in our informal contacts with the stakeholder community of artists, artists' associations, and producers, we pay close attention to how they view the Tribunal and the fairness of its processes.

- An important outcome of fair Tribunal decisions is the development of a solid body of precedents. These can be used to help resolve future cases.

- The Tribunal will fully inform and assist the artists, artists' associations, and producers that make up its stakeholder community. One way that the Tribunal does this is through timely responses to inquiries. The Tribunal receives a wide variety of questions from stakeholders, dealing with subjects like jurisdiction, specifics of the various cultural industries, and how to use the *Act*. Tribunal staff members respond to these questions quickly and thoroughly, always inviting further comment or question. Responses will be within 2 working days of the inquiry.

- With respect to more general information needs about the *Act* and the Tribunal's services and activities, the Tribunal has traditionally used information bulletins, regularly-updated information on its Web site, and information sessions for stakeholders. Follow-up with stakeholders has shown that these are well received and considered useful. The Tribunal has recently emphasized more tailored and customized information over group information sessions. Its various stakeholders have different, often quite specific, needs for information. More focused, personalized information and small group or individual meetings are an effective way of addressing stakeholders' needs. The Tribunal will continue to emphasize these more direct approaches to stakeholders, including participation in industry conferences that bring stakeholders together. Tribunal staff will continue to meet informally in 2011-2012 with a cross-section of stakeholders from the artists' and producers' communities, to identify and meet their information needs.

- The Tribunal began, in 2010-2011, an experiment with monthly information bulletins, and will continue this through 2011-2012, with an evaluation of their effectiveness early in 2012. It will also issue special information bulletins as required, to report important developments.

- The Tribunal will also continue revising its website to make it more helpful and accessible, and to ensure continuing compliance with the government's Common Look and Feel standards.

Benefits for Canadians

This program activity contributes to harmonious professional relations in the cultural sector, which in turn contributes to better conditions of engagement for artists and a more stable, predictable workforce for producers. This is a critical contribution to a vibrant Canadian culture, the economic benefits of which have been amply demonstrated by recent research.

Internal Services

Internal Services are activities and resources that support the needs of the Tribunal's operating program and other corporate obligations. They include administrative, human resources, financial, information management, and information technology services.

Program Activity: Internal Services					
Human Resources (FTEs) and Planned Spending ($ millions)					
2011–12		**2012–13**		**2013–14**	
FTEs	**Planned Spending**	**FTEs**	**Planned Spending**	**FTEs**	**Planned Spending**
3	0.450	3	0.450	3	0.450

Planning Highlights

The Tribunal has internal service expectations and monitors overall service performance of its internal services. The Tribunal has a sound results-oriented framework utilizing the Management Accountability Framework (MAF) and a quality assurance framework that will continue to ensure that services are conducted in a timely and cost effective manner.

The Tribunal's internal services have had to be carefully designed to take into account the extremely small size of the organization. The Tribunal outsources some corporate services that are not required on a full time basis. For example, it contracts with Canadian Heritage for human resources services, and with the Public Service Labour Relations Board and Industry Canada for informatics, security, and mail services. It has arrangements with two other federal labour boards to use their hearing rooms and library services.

Section III: Supplementary Information

Financial Highlights

http://www.capprt-tcrpap.gc.ca/eic/site/capprt-tcrpap.nsf/eng/tn00583.html

($ millions)

Condensed Statement of Operations For the Year (ended March 31)	**% change**	**Future-oriented 2011–12**	**Future-Oriented 2010-11**
EXPENSES			
Total Expenses		2.064	N/A
Net Cost of Operations		2.064	N/A

The Tribunal has not received a full "case" load in 2010-11. The case load for 2011-12 is planned to be near or at capacity.

Supplementary Information Tables

All electronic supplementary information tables found in the 2011–12 Report on Plans and Priorities can be found on the Treasury Board of Canada Secretariat's web site at: http://www.tbs-sct.gc.ca/rpp/2011-2012/info/info-eng.asp.

- Report on meeting requirements of Section 7 of the *Policy on Green Procurement*

(The complete list of 2011–12 RPP the official electronic supplementary information tables and associated guidance is available here.)

Section IV: Other Items of Interest

Contact Information

Canadian Artists and Producers Professional Relations Tribunal
240 Sparks Street, 1st Floor West
Ottawa, Ontario K1A 1A1

Telephone: (613) 996-4052 or 1 800 263-2787
Facsimile: (613) 947-4125
Email: info@capprt-tcrpap.gc.ca
Website: www.capprt-tcrpap.gc.ca

Statute and Regulations

Status of the Artist Act	S.C. 1992, c.33, as amended
Status of the Artist Act Professional Category Regulations	SOR 99/191
Canadian Artists and Producers Professional Relations Tribunal Procedural Regulations	SOR/2003-343

Statutory Responsibilities

The *Status of the Artist Act* requires or permits the Tribunal to undertake the following activities:

1. pass by-laws governing the conduct of its affairs [subs.11(2)];
2. hold meetings or proceedings of the Tribunal at such times and locations in Canada as it considers desirable [subs.13(2)];
3. make regulations of general application which it considers conducive to the performance of its duties [s.16];
4. make interim orders [subs.20(2)];
5. rescind or amend determinations or orders and rehear applications [subs.20(1)];
6. file a copy of its order or determination in the Federal Court for purposes of enforcement [s.22];
7. review by-laws of artists' associations [s.23];
8. receive copies of membership lists filed by associations of producers [s.24];
9. receive applications for certification from artists' associations pursuant to s.25 and provide public notice of the application;
10. determine the appropriateness of sectors for collective bargaining [s.26];
11. determine whether an artists' association is representative of the sector for which it seeks certification [s.27];
12. certify artists' associations to represent specific sectors [s.28];
13. maintain a register of all certificates issued [subs.28(4)];
14. receive, consider and decide applications for revocation of certification [s.29];

15. determine the rights, duties and privileges acquired by an artists' association following a merger, amalgamation or transfer of jurisdiction [s.30];
16. determine whether contractual conditions are "more favourable" to an artist than those contained in a scale agreement [subs.33(5)];
17. change the termination date of a scale agreement when so requested by the parties [s.34];
18. hear and determine questions referred to it by an arbitrator or arbitration board [s.41];
19. hear and decide on applications for a declaration that the use of pressure tactics is unlawful and prescribe appropriate remedies [ss.47,48,49];
20. hear and decide applications alleging unfair labour practices and prescribe appropriate remedies [ss.53,54];
21. issue consent to prosecute [s.59];
22. establish other offices which it considers necessary [subs.13(1)];
23. prepare and submit an annual report to Parliament through the Minister of Labour regarding activities during the fiscal year [s.61].